

REMARKS

Claims 1-18 are pending in the above-identified application. These claims have been subjected to a Unity of Invention Requirement as follows:

Group I -- claims 1-4 and 8 directed to substituted 6-(2-halogenphenyl)-triazolopyrimidine compounds/composition of formula I;

Group II -- claims 5 and 6 directed to a processes for preparing the compounds of Group I;

Group III -- claim 7 directed to intermediate compounds used in the processes recited in the claims of Group II;

Group IV -- claim 9 directed to the use of the compounds of Group I to control fungi;

Group V -- claims 10-14 and 17 directed to substituted 6-(2-halogenphenyl)-triazolopyrimidine compounds/composition of formula I;

Group VI -- claims 15 and 16 directed to a processes for preparing the compounds of Group V; and

Group VII -- claim 18 directed to a method for using the compounds of Group V to control fungi.

It is additionally noted that the compounds of Group I and V differ in that in Group I substituents R¹ and R² do not form a ring, whereas in the compounds of Group V, these substituents do form a ring together.

Responsive Election

Applicants hereby elect the subject matter of Group V, i.e. claims 10-14 and 17. This election is made with a traversal based on the reasons indicated below.

Reasons for Traversal

It is noted that the Office Action of June 28, 2007, i.e. the Unity of Invention Requirement, asserts that the core ring structure recited in formula I is disclosed in the prior art, such as for example in Pfengle '269 (USP 6,204,269). It is respectfully submitted that Pfengle '269 fails to provide an adequate basis for asserting that the compounds of the formulas in Group I and V fail to share a special technical feature, since all of the compounds of formula I for the subject matter of Group I and V require either that R^2 is hydrogen (e.g. claim 1) or R^1 and R^2 form a heterocyclic ring (e.g. claim 10). Thus, the special technical feature shared among all of these compounds includes one of these two mentioned features in addition to the presence of the 6-(2-halogenphenyl)-triazolopyrimidine moiety. In addition, it is submitted that the compounds of Group I and V are very closely related in structure, such that the search and examination of the subject matter in both of these groups would appear to significantly overlap resulting in no undue burden being placed on the Examiner to examine at least all of the subject matter of Group I and V.

Secondly, it is respectfully requested that the Examiner at least reduce the Unity of Invention Requirement such that at least Group VI and VII be examined together with elected Group V. In this regard, it is noted that in the "Administrative Instructions under PCT" and Annex B (MPEP, rev. 5, August 2006, pp A-157 to A-158), the combination of claims from different categories is permitted under the Unity of Invention Rules. Specifically, Annex B in rule (e)(a) states "...in addition to an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of said product and an independent claim for the use of said product [is permitted]...". Consequently, at least the subject matter of Group VI and VII should be examined together with the elected subject matter of Group V.

It is additionally recognized that the Examiner has indicated the possible "rejoinder" of the process claim subject matter of Group VI with elected Group V.

Finally, it is respectfully requested that the Examiner also consider reducing the Requirement to include Groups II and IV in addition to Group I, should the Examiner conclude that a special technical feature is shared among all the final product compounds recited in the presently pending claims. In this regard, it is respectfully submitted that there is no undue burden placed on the Examiner to examine this additional subject matter.


If any questions arise in the above matters, please contact Applicant's representative, Andrew D. Meikle (Reg. No. 32,868), in the Washington Metropolitan Area at the phone number listed below.

- ☐ Attached is a Petition for Extension of Time.
- ☐ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: July 30, 2007

Respectfully submitted,

By 
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